MODIMOLLE-MOOKGOPHONG LOCAL MUNICIPALITY

EXTERNAL LOAN POLICY

FOR THE YEAR 2019 / 2020

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FINANCIAL MANAGEMENT POLICY: -

EXTERNAL LOANS

A INTRODUCTION

1. External loans are borrowings from external sources for the funding of property, plant and equipment for the Municipality, possible refinancing of existing external loans subject to the conditions of the Municipal Finance Management Act, 2003 or as bridging finance in anticipation of the receipt of enforceable allocations.

2. External loans can consist of the following:

2.1 Loans from financial institutions;

2.2 Loans from Government;

2.3 Hire purchase agreements where the assets financed will become the property of the Municipality on termination of the hire purchase agreement;

2.4 The issue of redeemable debentures.

B NEW LOANS

1. External loans can only be obtained to fund expenses **of a capital** nature as provided for in the Municipal Finance Management Act, 2003. Loans may not be acquired to fund operating expenses.

2. The capital projects, which need funding, must be budgeted for and be authorised by Council.

3. A feasibility study and cost analysis must be conducted of the proposed capital project to be funded before funds are obtained from external sources.

4. External loans must be authorised by Council before the funds are acquired after compliance with section 46 (3) of the Municipal Finance Management Act, 2003.

C REPAYMENT

1. External loans must be repaid over the useful life of the assets purchased or the predicted life of the capital project.

2. The terms and conditions of the loan agreement shall be complied with and repayments on borrowings, capital and interest, must be made timeously and accurately. These repayments must be captured in the loan register in the same month that payment was approved by the Chief Financial Officer.

D LOAN REGISTER

1. All loans acquired must be captured into a loan register, computerised or manual, in the same month that the loan was paid out. The following information must be captured into the loans register:

    1.1 Unique identification number of asset financed;

    1.2 Name of financial institution;

    1.3 Amount received;

    1.4 Date received;

    1.5 Applicable interest rates;

    1.6 Date and cheque numbers of repayments as well as vote number debited;

    1.7 Loan opening balance at the beginning of the month;

    1.8 Instalments paid, differentiating between capital and interest;

    1.9 Balance at the end of each month.

2. The balance of the individual loans in the loan register must be reconciled to original external supporting documentation on a monthly basis.

3. The Accountant - Expenditure must reconcile the loan register to the general ledger loan accounts on a monthly basis and by the 10^{th} working day of each following month.

4. Interest charged and paid on external loans according to the loan register must be reconciled to Municipality's operating accounts on a monthly basis.

E RECORDING

1. All loan transactions must be accurately captured onto the Municipality's financial system in the correct financial period.

2. It is the duty of the Chief Financial Officer to review the reconciliation of the loan register and the external documentation and general ledger control accounts on a monthly basis. This process must be finalised by the 20^{th} day of each following month.

3. The short-term portion of the long-term loans must be separately disclosed in the financial statements under ……………at year-end.

F REQUIREMENTS OF THE MUNICIPAL FINANCE MANAGEMENT ACT, 2003

Chapter 6 of the Municipal Finance Management Act, 2003determines the conditions that must be met when the council wishes to incur debt, namely:

1. Short-term debt

1.1 The Municipality must incur short-term debt only in accordance with and subject to the provisions of the Municipal Finance Management Act, 2003 and only when necessary to bridge:

- Shortfalls within a financial year during which the debt is incurred, in expectation of specific and realistic anticipated income to be received within that financial year; or
- Capital needs within a financial year, to be repaid from specific funds to be received from enforceable allocations or long-term debt commitments.

1.2. The Municipality must incur short-term debt only if:

- A resolution of Council, signed by the Mayor, has approved the debt agreement; and
- The Municipal Manager has signed the agreement or other document which creates or acknowledges the debt.

1.3. For the purpose of paragraph 1.2 above mentioned Council may-

- Approve a short-term debt transaction individually; or
- Approve an agreement with a lender for a short-term credit facility to be accessed as and when required, including a line of credit or bank overdraft facility, provided that:
  - the credit limit were specified in the resolution of Council;
  - the terms of the agreement, including the credit limit, may be changed only by a resolution of Council; and
  - if Council approves a credit facility that is limited to emergency use, the Municipal Manager must notify the Council in writing as soon as practical of the amount, duration and cost of any debt incurred in terms of such a credit facility, as well as options for repaying such debt.

1.4. The Municipality:

- Must pay off short-term debt within the financial year in which it was incurred; and
- May not renew or refinance short-term debt, whether its own debt or that of any other entity, where such renewal or refinancing will have the effect of extending the short-term debt into a new financial year.

1.5. No lender may wilfully extend credit to the Municipality for the purpose of renewing or refinancing short-term debt.

1.6. If a lender wilfully extends credit to the Municipality in contravention of this policy, the Municipality is not bound to repay the loan or interest on the loan.

1.7. The above does not apply if the lender:

- Relied in good faith on written representations of the Municipality as to the purpose of the borrowing; and

- Did not know and had no reason to believe that the borrowing was for the purpose of renewing or refinancing short-term debt.

2. Long-term debt

2.1. The Municipality will incur long-term debt only in accordance with and subject to any applicable provisions of the Municipal Finance Management Act, 2003, only for the purpose of:

- Capital expenditure on property, plant or equipment to be used for the purpose of achieving the objects of local government as set out in section 152 of the Constitution,

- Re-financing existing long-term debt.

2.2. The Municipality will incur long-term debt only if:

- A resolution of Council, signed by the Mayor, has approved the debt agreement; and

- The Municipal Manager has signed the agreement or other document which creates or acknowledges the debt.

2.3. The Municipality will incur long-term debt only if the Municipal Manager:

- Has, in accordance with section 21A of the Municipal Systems Act, 2000:

    - at least 21 days prior to the meeting of the Council at which approval for the debt is to be considered, made public an information statement setting out particulars of the proposed debt, including the amount of the proposed debt, the purposes for which the debt is to be incurred and particulars of any security to be provided; and
    - invited the public, the National Treasury and the relevant provincial treasury to submit written comments or representations to the Council in respect of the proposed debt; and

- Has submitted a copy of the information statement to Council at least 21 days prior to the meeting of the Council, together with particulars of:

    - the essential repayment terms, including the anticipated debt repayment schedule; and
    - the anticipated total cost in connection with such debt over the repayment period.

2.4. Capital expenditure may include:

- Financing costs, including:

- capitalised interest for a reasonable initial period;
- costs associated with security arrangements in accordance with section 48;
- discounts and fees in connection with the financing;
- fees for legal, financial, advisory, trustee, credit rating and other services directly connected to the financing; and
- costs connected to the sale or placement of debt, and costs for printing and publication directly connected to the financing;

- Costs of professional services directly related to the capital expenditure; and

- Such other costs as may be prescribed.

2.5. The Municipality will only borrow money for the purpose of re-financing existing long-term debt, if:

- The existing long-term debt was lawfully incurred;

- The re-financing does not extend the term of the debt beyond the useful life of the property, plant or equipment for which the money was originally borrowed;

- The net present value of projected future payments (including principal and interest payments) after re-financing is less than the net present value of projected future payments before re-financing; and

- The discount rate used in projecting net present value, and any assumptions in connection with the calculations, must be reasonable and in accordance with criteria set out in a framework that may be prescribed.

2.6. The Municipality's long-term debt must be consistent with its capital budget.

2.7 Conditions applying to both short-term and long-term debt. The Municipality must incur debt only if:

- the debt is denominated in Rand and is not indexed to, or affected by, fluctuations in the value of the Rand against any foreign currency; and
- section 48(3) of the Municipal Finance Management Act, 2003 has been complied with, if security is to be provided by the Municipality.

G SECURITY

1. The Municipality may, by Council resolution, provide security for:

1.1 Any of its debt obligations;

1.2 Contractual obligations of the Municipality undertaken in connection with capital expenditure by other persons on property, plant or equipment to be used by the Municipality or such other person for the purpose of achieving the objects of local government in terms of section 152 of the Constitution.

2. The Municipality may provide any appropriate security, including by:

2.1 Giving a loan on, or pledging, mortgaging, ceding or otherwise hypothecating, an asset or right, or giving any other form of collateral;

2.2 Undertaking to effect payment directly from money or sources that may become available and to authorise the lender or investor direct access to such sources to ensure payment of the secured debt or the performance of the secured obligations, but this form of security may not affect compliance with section 8(2) of the Municipal Finance Management Act, 2003;

2.3 Undertaking to deposit funds with the lender, investor or third party as security;

2.4 Agreeing to specific payment mechanisms or procedures to ensure exclusive or dedicated payment to lenders or investors, including revenue intercepts, payments into dedicated accounts or other payment mechanisms or procedures;

2.5 Ceding as security any category of revenue or rights to future revenue;

2.6 Undertaking to have disputes resolved through mediation, arbitration or other dispute resolution mechanisms;

2.7 Undertaking to retain revenues or specific Municipal tariffs or other charges, fees or funds at a particular level or at a level sufficient to meet its financial obligations;

2.8 Undertaking to make provision in its budgets for the payment of its financial obligations, including capital and interest;

2.9 Agreeing to restrictions on debt that the Municipality may incur in future until the secured debt is settled or the secured obligations are met; and

2.10 Agreeing to such other arrangements as the Municipality may consider necessary and prudent.

3. A council resolution authorising the provision of security in terms of subsection (2)(a) of the Municipal Finance Management Act, 2003:

3.1 Must determine whether the asset or right with respect to which the security is provided, is necessary for providing the minimum level of basic Municipal services; and

3.2 If so, must indicate the manner in which the availability of the asset or right for the provision of that minimum level of basic Municipal services will be protected.

4. If the resolution has determined that the asset or right is necessary for providing the minimum level of basic Municipal services, neither the party to whom the Municipal security is provided, nor any successor or assignee of such party, may, in the event of a default by the Municipality, deal with the asset or right in a manner that would preclude or impede the continuation of that minimum level of basic Municipal services.

5. A determination that an asset or right is not necessary for providing the minimum level of basic Municipal services is binding on the Municipality until the secured debt has been paid in full or the secured obligations have been performed in full, as the case may be.

H. DISCLOSURE

1. Section 49 of the Municipal Finance Management Act, 2003 provides as follows in relation to disclosure of information:

"(1) Any person involved in the borrowing of money by the Municipality must, when interacting with a prospective lender or when preparing documentation for consideration by a prospective investor-

(a) disclose all information in that person's possession or within that person's knowledge that may be material to the decision of that prospective lender or investor; and

(b) take reasonable care to ensure the accuracy of any information disclosed.

(2) A lender or investor may rely on written representations of the Municipality signed by the accounting officer, if the lender or investor did not know and had no reason to believe that those representations were false or misleading."

I GUARANTEES

1. The Municipality may not issue any guarantee for any commitment or debt of any organ of state or person, except on the following conditions:

1.1 The guarantee must be within limits specified in the Municipality's approved budget;

1.2 The Municipality may guarantee the debt of a Municipal entity under its sole control only if the guarantee is authorised by the council in the same manner and subject to the same conditions applicable to the Municipality in terms of chapter 6 of the Municipal Finance Management Act, 2003 if it incurs debt;

1.3 The Municipality may guarantee the debt of a Municipal entity under its shared control or of any other person, but only with the approval of the National Treasury, and then only if:

- the Municipality creates, and maintains for the duration of the guarantee, a cash-backed reserve equal to its total potential financial exposure as a result of such guarantee; or

- the Municipality purchases and maintains in effect for the duration of the guarantee, a policy of insurance issued by a registered insurer, which covers the full amount of the Municipality's potential financial exposure as a result of such guarantee.

<u>Commencement</u>

This policy will be effective on the 1st July 2019.

ADMINISTRATOR / MUNICIPAL MANAGER